

From: Jesse Burson
To: Microsoft ATR
Date: 1/23/02 10:02am
Subject: Microsoft Settlement

There are a large number of problems I have with the proposed Microsoft settlement. Here are some letters sent by others with which I agree:

Most of all, I agree with the "Open Letter to DOJ Re: Microsoft Settlement" found here:
<http://www.kegel.com/remedy/letter.html>

In addition:

"Regarding the Microsoft settlement, I don't believe that the current proposal provides adequate reparations to those injured by Microsoft's anti-competitive behavior. Hundred, even thousands, of small companies have ceased to exist over the decades because of Microsoft's business practices. Similar to the settlement against AT&T, Microsoft should become a government regulated Monopoly, until its market share drops to an acceptable level (40%, for example, assuming one of it's competitors is now also at 40%). This must be true for all Microsoft product lines, before regulation is lifted. Even after being found guilty of being an illegal monopoly, Microsoft's behavior has not changed. Regulation of their behavior, with the threat of severe criminal penalties for failure to comply, is the only remedy that I can see will curtail them. The market must be able to return to a state of competition. Imagine the damage to the United States if Microsoft were to fail, as Enron failed. The risks of a monopoly are greater than merely the loss of competition."

"I believe this settlement is counter to the interests of the American public, deleterious to the American economy, and not adequate given the findings of fact in the trial. Microsoft's anti-competitive practices are counter to the law and spirit of our free-enterprise system. These practices inhibit competition, reduce innovation, and thereby decrease employment and productivity in our nation. Microsoft's monopolistic practices cause the public to bear increased costs and deny them the products of the innovation which would otherwise be stimulated through competition. The finding of fact which confirmed that Microsoft is a monopoly requires strict measures which address not only the practices they have engaged in in the past, but which also prevent them from engaging in other monopolistic practices in the future. It is my belief that a very strong set of strictures must be placed on convicted monopolists to insure that they are unable to continue their illegal activities. I do not think that the proposed settlement is strong enough to serve this function."

"I am opposed to the proposed settlement in the Microsoft antitrust trial. I feel that the current proposed settlement does not fully redress the actions committed by Microsoft in the past, nor inhibit their ability to commit similar actions in the future.

The vast majority of the provisions within the settlement only formalize the status quo. Of the remaining provisions, none will effectively prohibit Microsoft from abusing its current monopoly position in the operating system market. This is especially important in view of the seriousness of Microsoft's past transgressions.

Most important, the proposed settlement does nothing to correct Microsoft's previous actions. There are no provisions that correct or redress their previous abuses. They only prohibit the future repetition of those abuses. This, in my opinion, goes against the very foundation of law. If a person or organization is able to commit illegal acts, benefit from those acts and then receive as a "punishment" instructions that they cannot commit those acts again, they have still benefited from their illegal acts. That is not justice, not for the victims of their abuses and not for the American people in general.

While the Court's desire that a settlement be reached is well-intentioned, it is wrong to reach an unjust settlement just for settlement's sake. A wrong that is not corrected is compounded."